

How to Construct Global Justice

AARON JAMES*

TABLE OF CONTENTS

I. PRACTICE-BASED OBLIGATIONS 1013

II. PRACTICAL SIGNIFICANCE: THE PRACTICE OF TRADE 1015

III. PRACTICAL SIGNIFICANCE: THE TERRITORIAL STATE SYSTEM..... 1017

IV. GLOBAL JUSTICE..... 1024

V. THE AIMS OF POLITICAL PHILOSOPHY 1026

VI. CENTRALITY 1028

VII. NORMATIVITY 1030

VIII. SUFFICIENCY 1032

Do social relationships between people give rise to any demands of social justice whatsoever? If they do, are they of any practical significance given the relationships living human beings are actually in? And, might they be so significant as to ground a theory of *global justice*—if not the whole of anything rightly called *justice*, then at least of the *central* range of issues in world politics? Finally, could that perhaps be what a political philosophy of global justice should mainly be about?

Here, in bare outline, is how the answers to all of these questions might be “yes,” at least for questions of socioeconomic distributive justice.

I. PRACTICE-BASED OBLIGATIONS

A social practice, or system of several social practices, can be said to generate moral obligations of “what we owe to each other,” in T. M.

* © 2015 Aaron James. Professor of Philosophy, UC Irvine.

Scanlon's sense.¹ Reasoning about what we owe to others, about what people can or cannot reasonably complain of, is already highly sensitive to a specific context of interaction, though even in a state of nature, with no practices established. When a social practice is on hand, we can also justify principles of justice *for*, and in part *from*, its distinctive structure, in light of the best—perhaps “constructive”—interpretation of its understood aims and organization.² In such a practice-based justification, principles are defended not simply by pure sociological interpretation, and not simply by pure moral argument, but rather by both, blended together in a suitable reflective equilibrium.³

So in response to the first of the questions I posed at the outset, we can answer that at least some social relationships can indeed generate obligations of their own. When people, or collective agents, have organized their conduct according to social expectations for the sake of some generally understood purpose, at least some principles will specify what those involved owe each other, in view of their common association, its consequences, and its presumed aims.⁴ In the first instance, such principles are addressed to the organized group as collective obligations. However, particular parties can then be said to acquire obligations by association to uphold the principles as they can, aside from any natural duties they may have, which may apply as well.

Such associative principles and obligations, justified specifically for a type of practice, will not necessarily have independent application. When a legal system is established for various purposes—for example, for the mutual assurances needed for security—its subjects surely have moral rights of due process. But they can have those rights within the system because of the risks of arbitrary arrest or indefinite detention that come along with a working system of rule. The protections they can reasonably demand, given the risks they actually face under a prevailing system, will not necessarily be called for when those risks are not in fact being created. Therefore, principles of due process justified on the basis of risks being

1. T. M. SCANLON, WHAT WE OWE TO EACH OTHER 4 (1998) (“[T]he subject matter of judgments of right and wrong . . . are judgments about what would be permitted by principles that could not reasonably be rejected, by people who were moved to find principles for the general regulation of behavior that others, similarly motivated, could not reasonably reject.”).

2. AARON JAMES, FAIRNESS IN PRACTICE: A SOCIAL CONTRACT FOR A GLOBAL ECONOMY 26, 29 (2012) [hereinafter FAIRNESS].

3. See Aaron James, *Constructing Justice for Existing Practice: Rawls and the Status Quo*, 33 PHIL. & PUB. AFF. 281, 301, 305 (2005); FAIRNESS, *supra* note 2, at 25–30; Aaron James, *Why Practices?*, 51 RAISONS POLITIQUES 43, 45 (2013) [hereinafter *Practices*]; Aaron James, *Reply to Critics*, 44 CANADIAN J. PHIL. 286, 288–90 (2014) [hereinafter *Reply*].

4. See *Practices*, *supra* note 3, at 44.

created will not necessarily apply otherwise, under relevantly different circumstances, whether in a state of nature or under a sufficiently different legal order.

Once justified, a practice-sensitive principle has a conditional form—“given a legal system, with such-and-such risks, etc., such-and-such is required”. Because conditionally true, a principle can trivially count as true or correct whether or not the practice in question exists.⁵ But it can remain practice-sensitive in important respects. Its antecedent will still make essential reference to relevant social facts and circumstances; a principle that did not would not necessarily be the same principle and would need to be separately justified. Even a conditionally true principle, justified for a kind of social practice, will not apply unless the relevant social practice exists. If the relevant practice is not actually established, the principle will not apply in the actual world, to us. And it will not then be normative for us, in the sense of actually giving us certain reasons for action.⁶

Both practice-independent and practice-dependent principles call for the same policies and institutions. This would not imply that practice-based principles are insufficient; all that follows is that the policies are normatively overdetermined by what may be separate sufficient grounds of perhaps fundamentally different kinds. The practice theorist can claim to be the only game in town, but need not do so. The essential claim is one of sufficiency, which might be put as follows: even if we assume, *arguendo*, that there are no *natural*, practice-independent principles, rights, or duties, it is nevertheless true that at least some social practices suffice to generate at least some moral principles for their regulation.

II. PRACTICAL SIGNIFICANCE: THE PRACTICE OF TRADE

To the second question posed earlier, about whether such associational demands are at all *significant* for policy, my own practice-based answer is that they apply with consequence not only to the state, but also to

5. Such principles are trivially “fact-insensitive,” in the terms used by G. A. Cohen. G. A. COHEN, *RESCUING JUSTICE AND EQUALITY* 233–34 (2008). For any hypothesized social reality F, and any principles that apply P, it will be true that “If F, then P,” whatever the actual world facts. Such conditionalized principles are also “fact-sensitive” in the sense that their applicability and normativity depends on the existence of P, as noted in the text. *Id.* at 233. Nor, *pace* Cohen, are such trivial principles in any interesting sense “fundamental.”

6. I elaborate upon this later in this Article. *See infra* Part VII.

international relations. They create obligations for societies that participate in international social practices and, secondarily, create obligations for between individuals in different societies by virtue of being related by their societies' relations. They do so in at least two major ways.

First, as I have argued elsewhere, societal obligations of fairness arise within the global economy.⁷ The global economy as we know it is enabled and shaped by an emergent social practice of trade, in which different societies mutually rely upon common markets, for the sake of the national income gains due to specialization to comparative advantage, economies of scale, and the spread of technology. The international practice of market reliance in turn gives rise to principled demands of structural equity, which concern how the national income gains are shared among different trading countries and their respective social classes.⁸ By default, gains over background societal endowments are to be shared equally among trading societies, unless greater gains flow to poorer countries.⁹ "Losers" within countries are to be compensated by social insurance schemes—and among a society's fair share of gains, gains for different social groups are to be distributed equally, unless inequality is otherwise acceptable.¹⁰

I claim that these principles are significant for certain policy choices—tariff levels, social insurances schemes, industrial policy, and international rules concerned with export subsidies, infant industries, and policy discrimination. They are also limited in important ways. Because they are assumed to apply only to the surplus of specifically international cooperation, they do not support—and also do not preclude—claims to resources or output not due to trade—under autarky, which may differ considerably from country to country and underwrite very different standards of living.

At the same time, the relation between productivity due to trade and background endowments is not fixed over time.¹¹ In any trade practice, each country will refine its national division of labor by focusing on what it does best relative to its productive options—or by arbitrarily dividing specializations—with a consequent increase in national productive capacity, while at the same time enabling a similar specialization and increase in national productive capability in the other trading countries.¹² As reliance on the practice steadily continues, each of the countries does better in

7. FAIRNESS, *supra* note 2, at 8, 131.

8. *Id.* at 3, 165.

9. *Id.* at 165–66.

10. For a full statement of these principles, see FAIRNESS, *supra* note 2, at 203–45.

11. *Id.* at 181.

12. Stephen Redding, *Dynamic Comparative Advantage and the Welfare Effects of Trade*, 51 OXFORD ECON. PAPERS 15, 22 (1995).

national income than it could and would give no or lesser trade. Whether or for how long there is a relevant difference between the gains of trade and background endowments depends on how deeply and quickly these become integrated, especially given dynamic trade to comparative advantage, which seeks to cultivate more productive industry for its higher returns.¹³ As South Korea and other development success stories suggest, this may quickly improve a country's position in the international division of labor, even from a poorly endowed start.¹⁴

So much is generally assumed by much of international economics, both in abstract models and as a rough characterization of existing economic relations. My claim is that this familiar picture suffices as a relatively uncontroversial basis for a limited but practically significant egalitarian requirement of fairness that is foreign in much of economic thought. National income gains are created by specifically international cooperation and so raises questions of egalitarian distribution among the countries that jointly create them.¹⁵ At the same time, the result is limited to the gains from trade over and above background endowments, suitably adjusted for dynamic improvements over time. So the question remains, what shall we say about the general wealth of nations, beyond its mere augmentation through trade?

III. PRACTICAL SIGNIFICANCE: THE TERRITORIAL STATE SYSTEM

This brings us to a second source of societal obligation. The state system, of which trade practice is an embedded sub-system, generates its own associational responsibilities, which partly concern the way the system itself shapes even background societal endowments.¹⁶

The state system is a social practice. In the modern age, beginning with the Treaties of Westphalia, the world has settled upon a political practice in which authority is divided over distinct territorial jurisdictions, with default rights of non-interference from outside, all for the sake of certain

13. *Id.* at 15, 22.

14. *See generally* Aaron James, *Fortune and Fairness in Global Economic Life* (unpublished manuscript) (on file with the University of California, Irvine) (discussing an alternative to the traditional laissez-faire system of trade).

15. AARON JAMES, *Authority and Territory: A Practice Account*, SOVEREIGNTY AND THE NEW EXECUTIVE AUTHORITY (Claire Finklestein & Sharon Lloyd, eds., Oxford Univ. Press) (forthcoming).

16. *Practices*, *supra* note 3, at 57.

social purposes, especially peace, or at least the reduction of violence.¹⁷ Whatever other issues of justice this social reality raises, societies can be said to owe things to one another, simply by virtue of their decentralized political union.¹⁸ The members of a society will often be in a position to reasonably complain of how their society is treated under the common practice, especially in view of the societal goods the system itself promises to deliver, by virtue of taking them as one of its aims. Principles of what societies owe to each other within their common practice can thus apply, and particular societies can come to be obligated by association to set the system right.

To elaborate, whatever realist doubts one may have about whether states follow rules in their dealings with one another—if only by invoking them as a public basis for criticism, sanction, and occasional punishment—the territorial state system itself is the constitutive backdrop against which international rules and all state choices function.¹⁹ Three kinds of constitutive social norms are particularly central. First, each of many distinct but functionally similar political states is granted jurisdictional rights—a set of Hohfeldian powers to regulate its borders, set rules for the use of its resources, govern supremely over its population, and so on—over a specified territory.²⁰ These are often called norms of territorial “supremacy.”²¹ Second, each such authority is permitted to repel outside attackers, but is also subject to default expectations of non-interference across territorial jurisdictions, which may be qualified by secondary norms that permit

17. AUTHORITY AND TERRITORY, *supra* note 15, at 5. See also John Gerard Ruggie, *Territoriality and Beyond: Problematizing Modernity in International Relations*, 47 INT’L ORG. 139, 163–64 (1993).

18. *Practices*, *supra* note 3, at 57.

19. Similarly, for realists such as Kenneth Waltz, powerful state incentives of self-help are seen as created by the state system’s effective operation. KENNETH WALTZ, *THEORY OF INTERNATIONAL POLITICS*, 72, 91 (1979). I resist Waltz’s view on practice-based grounds in FAIRNESS, *supra* note 2, at 82–87.

20. “[T]he distinctive feature of the modern system of rule is that it has differentiated its subject [i.e., the organization of human collectivities] collectively into territorially defined, fixed . . . mutually exclusive [functionally similar, political centralized] enclaves of legitimate [and supreme] dominion. As such, it appears to be unique in human history,” especially in contrast with the territorially fluid medieval order, and anything yet to emerge in its place. Ruggie, *supra* note 17, at 151.

21. It is worth emphasizing that territorial rights are not strictly speaking property rights, but rather powers to set property rights. For a discussion of this issue, see Anna Stilz, *Why Do States Have Territorial Rights*, 1 INT’L THEORY 185, 189–90 (2009) and Anna Stilz, *Nations, States, and Territory*, 121 ETHICS 121 (2011). Lockeans such as A. John Simmons attempt to explain state territorial rights in terms of natural property rights, but also admit that this is a revisionistic project. See A. John Simmons, *On the Territorial Rights of States*, 35 NOÛS 300, 318–20 (Supp. s1 Oct. 2001).

intervention, under specified conditions.²² This is often called the “norm of non-intervention.”²³ Third, further rules or understandings specify what types of functionally similar states could qualify for membership in the system, as bearers of its rights and subjects of its obligations. Such membership criteria may evolve, shaped by international standards within a secondary practice for recognizing a political group as a member by other member states.²⁴

In fact, every existing society and every government has been deeply shaped by this territorial division of political authority, even as domestic developments such as the rise of democracy have also shaped it from below in a process of co-evolution.²⁵ Being a state at all, properly speaking arguably depends on this larger association. As Hedley Bull suggests, a domestic state is to be contrasted with an “independent political community which merely claims a right to sovereignty (or is judged by others to have such a right), but cannot assert this right in practice.”²⁶ This, Bull suggests, “is not a state properly so-called.”²⁷

22. Even “sovereignty” as a default legal standing hardly means that states are equal in capability or functioning in real practice. We can agree with Krasner that conventional models of legal sovereignty are unrealistic. *See generally* STEPHEN D. KRASNER, SOVEREIGNTY: ORGANIZED HYPOCRISY (1999). We can also agree with David A. Lake that power relations are often shaped not simply by coercion but by special authority relations, e.g., as between the United States and Mexico, and Nicaragua and both the United States and Mexico. *See* DAVID A. LAKE, HIERARCHY IN INTERNATIONAL RELATIONS 22–23 (2009). That is, it can still be true among particular states that, as Lake puts it, “the right to rule rests on a social contract in which the ruler provides a political order of value to the ruled, who in turn grant legitimacy to the ruler and comply with the restraints on their behavior necessary for the production of that order.” *Id.* at 3.

23. JOHN RAWLS, A THEORY OF JUSTICE 378–79 (1971) (explaining that principles of justice among nations include “the right of a people to settle its own affairs without the intervention of foreign powers”).

24. Practices of recognition are arguably central to the territorial order. *See* Ruggie, *supra* note 17, at 162.

25. *See* HEDLEY BULL, THE ANARCHICAL SOCIETY: A STUDY OF ORDER IN WORLD POLITICS 8 (1977).

26. *Id.*

27. *Id.*

The Germanic peoples of the Dark Ages, for example, were independent political communities, but while their rulers asserted supremacy over a population, they did not assert it over a distinct territory. The kingdoms and principalities of Western Christendom in the Middle Ages were not states: they did not possess internal sovereignty because they were not supreme over authorities within their territory and population; and at the same time they did not possess external sovereignty since they were not independent of the Pope or, in some cases, the Holy Roman

But is the state system really a *social practice*, as opposed, say, to a mere system of coordination? It is in the following minimal sense: the conduct of different agents is more or less effectively coordinated by widely understood social expectations, as rationalized and adjusted by some shared, or at least presumed, purposes. Most people, most collectives, and most of their officials the world over assume the basic norms of the state system are widely accepted and followed, and most largely comply with those norms on the presumption that enough others are doing likewise, in what may be collectively self-fulfilling expectations. Such expectations are themselves governed and adjusted over time, as political actors rationalize or adjust norms of state conduct, whether through state policy, treaties, international administration, political argument, or trend-setting action—all without a global state.²⁸

The system can also be said to have purposes if they can merely be presumed. That is, they need not be actually endorsed, widely or even at all. For, I suggest, mere ideational endorsement can coordinate conduct, without genuinely shared purposes; as long as enough of the agents accept that enough of the other agents endorse a purpose, even if few or none of them in fact accept its necessity or value, the agents may still more or less effectively coordinate around the presumed end. In that sense, the coordinated group presumes the end.²⁹ So, for example, since the founding Treaties of Westphalia the aim of peace, or at least of improved security, has been generally endorsed in at least the ideational sense, if not also widely supported. For all its horrors, the system did eventually bring the virtual end of territorial conquest, at first in Europe, and finally in the era of decolonization, and, in recent decades, has dramatically reduced war

Emperor. In parts of Africa, Australia and Oceania, before the European intrusion, there were independent communities held together by ties of lineage or kinship, in which there was no such institution as government. Entities such as these fall outside the purview of “international relations,” if by this we mean . . . the relations of states in the strict sense. . . . But where states are in regular contact with one another, and where in addition there is interaction between them sufficient to make the behaviour of each a necessary element in the calculations of the other, then we may speak of their forming a system.

Id. at 8–10.

28. Such governance may well amount to what Krasner calls an “organized hypocrisy,” because states routinely violate the norms they say they affirm. But the ideational affirmation that lip service perpetuates means that people worldwide are more or less generally organized, in a generally governed system, all the same. See KRASNER, *supra* note 22, at 41–44.

29. This is consistent with degrees of cooperativeness and perhaps corresponding degrees of stability in different settings. How cooperative a group is may depend on such varying factors as how widely a social purpose is actually endorsed; whether and to what degree people personally intend to comply, and for what reasons; whether people are motivated by moral concerns; and whether to what degree people have genuinely shared intentions, joint commitments, or shared identities, etc.

and violence, in conjunction with any number of factors. Suitably revised, the state system now appears to be at least capable of advancing peace over the long haul, much as Kant once dreamed.³⁰ Unlike the practice of slavery, the state system is not so patently unjustifiable that it should be abolished rather than further improved. We can tentatively presume its basic moral legitimacy, if only for lack of fundamental options, even if it still requires deep revision.

The state system can also be said to have further aims, especially in its post-war understanding. It arguably aims to secure conditions: (i) for stable possession, the establishment of individual or collective property rights, and the conservation of resources; (ii) for societal economic development and plenty; (iii) for collective self-governance and self-determination; (iv) for the realization of basic civil, political, and economic rights; and (v) even, perhaps, for larger social justice—perhaps variously understood. To be sure, the aims of peace and security are less controversial than these other candidates. They seem most amenable to a *Catholic* interpretive defense that defers to established social understandings, even when they seem to conflict with our personal moral or interpretive judgment as theorists. A relatively *protestant* interpretation, by comparison, will rely more heavily on the interpreter's own understandings and evaluations in making sense of a social structure. While both forms of interpretation can be constructive, to different degrees, the latter offers greater latitude for defending an expansive list of aims or principles—though still in the name of interpretive charity, which may still fall short well of our own best, freestanding ideas of justice. Even a constructive interpretation is still an *interpretation* of a state system that is anyway there, rather than a pure moral recommendation about how things ought to be, ideally speaking.³¹

So the question remains what societies owe to each other, by virtue of their common association. To answer, one may argue that, absent special justification, members of a society can reasonably complain on their society's behalf when the international system creates or permits disadvantages to their societies as compared to other societies, as regards the state system's purposes. Where feasible, advantaged societies are then morally required

30. Michael W. Doyle, *Kant, Liberal Legacies, and Foreign Affairs, Part I*, 12 PHIL. & PUB. AFF. 205, 205–35 (1983); Michael W. Doyle, *Kant, Liberal Legacies, and Foreign Affairs, Part 2*, 12 PHIL. & PUB. AFF. 323, 323–53 (1983).

31. Two of my articles address the pros and cons of “Catholic” and “Protestant” methods of constructive interpretation. *Reply*, *supra* note 3, at 288–89; *Practices*, *supra* note 3, at 47.

to adopt policies that can be expected to mitigate the disadvantages over time, in order that less advantaged countries be treated fairly under the shared practice, as a matter of structural equity.

So, for instance, it may be argued that the system has the aim of securing conditions for societal economic development and plenty and that the state system or its elements helps to explain why countries grow rich or remain poor. In that case, it may be said, developed states will have an associational obligation to provide assistance—whether in the form of emergency relief, security, or development assistance—or, where feasible, diplomatic, economic, or military intervention. Societies that suffer the relative disadvantages can complain of any version of the practice in which better-advantaged societies fail to reliably provide them with important and necessary forms of aid. Barring special justifications for inaction, the relatively advantaged societies would arguably lack a comparably strong complaint against expectations of intervention, because the sacrifices would be sufficiently low, especially as shared over a large population.

Development assistance would thus be a matter of associational obligation, even if separate natural or humanitarian duties also apply. But, likewise, any interpretively attributed aim of the state system, whether peace, collective self-determination, economic development, or basic domestic social justice, could support demands for fair treatment under the common practice, along with corresponding obligations for the states in a position to effect reform.

This kind of argument is to some degree hostage to empirical fortune; it assumes the relevant objectionable consequences—continued poverty—can be attributed to the state system itself or one of its versions. At the same time, the system need only have an enabling causal role or general contributory tendencies in conjunction with many other causal factors. It may be quite enough to point to tendencies of the system’s politically decentralized and territorial nature, including the following familiar examples.³² *Abuse*: People are largely left in the hands of their sovereign, at heightened risk of abuse. What people gain in being freed from wars and invasions, they may lose in domestic tyranny or oppression, persistent corruption, or complacency in the design of economic policy. Even in a relatively decent regime, they may suffer persistent political exclusion or underrepresentation. *Coordination Failure*: In general, the policies of different sovereign governments are difficult to coordinate. Cross-border externalities, from trade or pollution policies, easily appear to be someone else’s problem, or devolve into mutual “beggar my neighbor” policies and

32. See Ronald Dworkin, *A New Philosophy For International Law*, 41 PHIL. & PUB. AFF. 2, 17–19 (2013), for this orientation to the problem, albeit as a question of law, and several of the following examples.

recriminations. Even in dealing with the most urgent commons problems—the spread of serious disease, regional pollution, or global problems such as climate change—separate sovereigns do not readily rise to collective state action, often at great loss to their respective populations. *Perverse Incentives*: Established international privileges give illegitimate rulers title for the legal sale of a country's resources and the right to borrow in its name, which can in turn create incentives for corruption and persistent underdevelopment.³³ *Exclusion*: The mere existence of enforced borders excludes individuals and societies from natural and social resources, including bare means of physical subsistence, when a home society is not adequately providing them. The adverse consequences of exclusion may not be readily compensated for by the general benefits of dividing the world into territorial states. Many willing migrants will be excluded from greener pastures, and whole societies may suffer unfavorable conditions for development—because of a worsening climate, because poor geography has left them far from trade routes, or because they have inherited poorly governed institutions, in part due to perverse incentives created by the international system. As the case of Kiribati suggest, low-lying island nations may find themselves shopping for a home, with no unclaimed territory on the planet readily available for ready settlement.

In each of these cases, the state system may be said to generate its own practice-dependent demands of justice—to accept immigrants, to aid developing countries, to offer cooperation in trade. This can be true aside from any further practice-independent moral requirements, in a way that is addressed to the practice itself. The animating objections make reference to one or more of the state system's systemic tendencies. They lay claim to an alternative institutional design in the name of the societal goods promised by the system, in the very aims that define the common enterprise. In that case, in contrast to mere appeals to welfare or humanity, the objection has a distinctive kind of internal force. The objection cannot be reasonably treated as irrelevant in the decisions at issue if the societal goods in question define the association's very point. In addition, when societies within the system are asked to bear costs of reform in the

33. See THOMAS POGGE, WORLD POVERTY AND HUMAN RIGHTS 4–6 (2002); Leif Wenar, *Property Rights and the Resource Curse*, 36 PHIL. & PUB. AFF. 9 (2008) (“The blessing of resources turns into a curse when tyrants and insurgents are allowed to sell off a country's resources . . . and to use the proceeds in ways that make the people worse off.”).

system's own name, they are merely expected to sacrifice so that other societies might enjoy the system's promised benefits as well.

When principles are justified as the system's own internal principles, all state participants may be said to have standing to demand fulfillment of what they require, a general status that non-members of the system would not enjoy. A state's ability to exercise this standing—to get a hearing and movement toward reform—may or may not be very effective. Among other factors, beyond a government's bargaining power, much may depend on how far the principles invoked are in fact socially recognized, even if only in the thin, ideational sense. But associational principles of the system would seem to be especially apt to induce the requisite social perceptions, and perhaps, eventually, meaningful change.

A given international associative obligation, though perhaps of great significance for economic policy by itself, will also have limits. It will apply only to the systemic tendency for which it is justified, unless a more encompassing rationale is provided. More generally, any such associative principles and obligations will be international in nature. Their concern in the first instance will be societal economic prospects—or a given member's complaint on behalf of his or her society's prospects. They will be addressed directly to a society's rulers and only indirectly to the citizenry charged with holding its rulers accountable for the society's obligations. Accordingly, international associative principles may not provide a general egalitarian basis for comparing the plights of any two individuals of the world, in view of their respective shares of the world's total personal or societal resources.

IV. GLOBAL JUSTICE

The third question I posed at the outset asks how significant such associational demands might be in matters of socioeconomic distributive justice. Although any given requirement may be limited on its own in the ways suggested, my larger claim is that that, taken all together, practice-generated principles and obligations are enormously consequential for how wealth is to be distributed around the world. In particular, provided domestic inequality is appropriately regulated according to domestic practice-based principles of distribution, we have a complex principled basis for an international system that can be expected to yield roughly equalized standards of living globally. In short, if harmonizing living standards is the economist's dream for the mythical long run, practice-based justice demands an international system that, as far as possible, makes the dream a reality sooner rather than later—within the current century.

That is, international associative obligations arguably require the international system to eventually bring all societies up to advanced—and

perhaps increasing—world standards of living. For, it may be argued, given the state system's aim of fostering conditions for development and societal plenty, and insofar as its institutional realization helps to causally explain persistent relative depravation, in part through territorial exclusion and other problematic tendencies, relatively advantaged societies will be required to facilitate the comparable socioeconomic development of relatively disadvantaged societies through aid, lending, and trade. Therefore, if we first imagine universal autarky, societies would at least have associative obligations to open borders for immigration and provide some aid. To the extent, those measures are limited; they would also have to establish an international trade practice when it does not exist already. Once established the more egalitarian principles for trade practice would kick in. Gains over background endowments would then have to be distributed equally among trading countries, unless unequal gains flow to poor countries.³⁴ As background endowments change, given "factor price equalization," a fair international system could be expected to bring convergence in societal standards of living, much as economic theory claims. In due course, developing countries catch up, rising well beyond any threshold of absolute poverty, reaching parity with advanced world living standards.

This can be expected in part due to dynamic trade to comparative advantage, which shapes endowments over time. Societal capacities of production can be internalized into trade practice relatively quickly, and that process may be accelerated as societies fulfill their separate background associational obligations, which either enable integration or distribute its fruit. If we idealize, imagining good will among countries, we can form certain normative expectations about what would come to pass in a world in which societies were steadily fulfilling their various associative obligations in trade, financial regulation, and developmental assistance. With relatively modest economic assumptions, we could normatively expect developing countries to catch up relatively rapidly. And when we return to our world, where commitment to fairness is at best shaky and circumstantial, we are still in a position to say that this is what fairness finally demands, and what world politics must agree to and facilitate if each society is to be given its due.

To be sure, it is a matter of considerable empirical uncertainty what it would take, over what span of time, to bring about the rough equalization

34. See FAIRNESS, *supra* note 2, at 203–05.

of living standards worldwide. But the issue is not simply one of economic conjecture. The possibilities of convergence depend heavily on international policy coordination—on domestic tax policy and international cooperation on tax competition—of a kind, that turns as much on political will as economic fundamentals. In the present picture, rough equality is what we can expect of a fair international order; it is what must happen, as quickly as possible, if societies are to associate on equitable terms in international relationships of the sort we have already.

We thus have a rationale for expecting rough global material equality, but from specifically international principles, along with economic assumptions about tendencies of “factor price equalization”. We reach a strong distributional result with no assumption any single, cosmopolitan principle of distribution applies among all the individuals of the world—by a globalization of Rawls’s domestic difference principle.³⁵ We still only compare the relative plights of whole societies, and of individuals within societies, without comparing how any two individuals fare anywhere in the world. This shows that the state system and practice of trade, by themselves, still would not necessarily ground more robust cosmopolitan principles. A case for them can still of course be argued, though it would have to be explained whether and how the grounds invoked really are *associative* in nature.³⁶

V. THE AIMS OF POLITICAL PHILOSOPHY

So far, the grand promises I have offered are no more than promises, and indeed something of a précis for a book in progress, which will offer a full elaboration and defense. My hope in all this is to cover the properly central areas of political philosophy’s concern in practice-based terms, so to invite a larger question: is this not what a political philosophy of global justice is, or at least should be all about?

To answer “yes” to this question is to assume a conception of the aims of a political philosophy of global justice. In the remainder of my discussion, I develop one such conception, which includes two theses:

Centrality: The proper aspiration of a political philosophy of global justice is to account for the *central* range of issues facing world politics.

Sufficiency: There is indeed an acceptable practice-based account, albeit complex and pluralistic, that suffices to cover this central range of issues.

35. See RAWLS, *supra* note 23, at 302 (explaining that the difference principle, Rawls’ second principle of justice, requires that “[s]ocial and economic inequalities [] be arranged so that they are both (a) to the greatest benefit of the least advantaged . . . and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.”).

36. For elaboration of this point, see *Fortune and Fairness in Global Economic Life*, *supra* note 14 (manuscript at 34–36).

The issues that such an account does not or cannot plausibly address are properly regarded as *peripheral* or secondary issues.

The Centrality claim does not say whether any approach to justice suffices to cover the central issues—it could be that none does. Provided a conception of what issues are properly central rather than peripheral, one could deny the claim to Sufficiency, to argue that, the political philosophy of global justice is doomed for failure. Perhaps the best approaches to justice—practice-based and otherwise—at best justify peripheral concerns, leaving the enterprise a failure on its own terms.

To advance the Sufficiency claim is to resist this kind of skepticism about political philosophy's enterprise. In that case, along with the Centrality claim, capturing the central range of issues facing world politics does indeed fulfill its proper and high aspirations. As one may elaborate, we thus see political philosophy as not only part of human culture and politics, but as making a distinctive contribution—*reason's* contribution—without which, it may be added, humanity is lost in cynicism, despair, and perhaps the unraveling of much that is good in our social existence. In politics, the still small voice of reason is all too often unheard or ignored. Yet through studied exercise of reason itself and in view of the highest standards of thought, philosophers can and must try to speak and be heard on reason's behalf.³⁷

The Sufficiency claim says only that some sort of practice-based account is sufficient, which leaves room to argue over versions. Like non-relational luck-egalitarian views, some associational cosmopolitanisms claim to capture global socioeconomic justice in one fell swoop; the relationships now found among more or less all people suffice for egalitarian principles that apply among all individuals.³⁸ My own practice theory takes an internationalist approach. A plural set of international associational obligations, for societies rather than persons as such, covers the central issues, or at least *will* once fully elaborated. I trade simplicity for complexity, in hopes of a better articulated, more illuminating, and

37. The selectorate theory of politics suggests that officials concerned with “political survival” are not listening to reason, in a way that invites cynical challenge to the point of speaking up with normative arguments. I answer this challenge in a forthcoming paper. Aaron James, *How Cynical Can Ideal Theory Be?*, INT’L J. POL. THEORY 1–3 (forthcoming 2016).

38. See, e.g., CHARLES R. BEITZ, *POLITICAL THEORY AND INTERNATIONAL RELATIONS* (1979); KOK-CHOR TAN, *JUSTICE, INSTITUTIONS, AND LUCK* (2012).

normatively forceful approach, which I address in more detail below.³⁹ The complexity saddles us with difficult interpretive questions about our world-historical moment and basic social practices, which may be many and various, and, a priori, may or may not add up to any properly global theory of justice, as opposed to a mixed bag of local accounts, which lack global scope. Nevertheless, as sketched earlier, the project is to show that we can indeed construct an internationalist conception of global socioeconomic justice, not in one fell swoop, but in roughly two steps.

VI. CENTRALITY

If the Centrality claim is correct, many recent debates have been of limited significance. The question of global or international justice has often been assumed to turn on the question of how to define the concept of socioeconomic distributive justice, where its scope is limited by some stated general necessary condition for the concept's very applicability in global affairs. What is the essential mark? Coercion? Sovereign authority? Pervasive influence? Reciprocal cooperation? Undeserved misfortune? The scope and limits of one's favored conditions is then assumed to circumscribe what socioeconomic justice might require and so thus confine its application—within societies, or some relational context, etc.⁴⁰

This has a certain theoretical utility, beyond giving professional theorists something to argue about. We thus test the scope and limits of various specific rationales for speaking of justice, social justice, or socioeconomic distributive justice. Yet the exercise by itself can be seen as a largely verbal issue; it may mean only that we should distinguish different issues, species of justice, or justice concepts. We can thus grant a proposed restriction on a moral concept at issue, but simply add that it is but one moral concept among many, and that other moral concepts are not so restricted. Given the Centrality thesis, what is finally at stake is not such questions of definition and scope of application in view of necessary conditions for a given justice concept. What is at stake is what kinds of values, duties, or obligations are sufficient to capture, at least on some plausible elaboration of what issues are of properly central importance, the central moral issues facing world politics—issues of legitimacy,

39. See *infra* Part VIII.

40. For such debates, see, e.g., SIMON CANEY, *JUSTICE BEYOND BORDERS: A GLOBAL POLITICAL THEORY* 1 (2005); Arash Abizadeh, *Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice*, 35 PHIL. & PUB. AFF. 318, 320 (2007); Michael Blake, *Distributive Justice, State Coercion, and Autonomy*, 30 PHIL. & PUB. AFF. 257, 257–58 (2001); Thomas Nagel, *The Problem of Global Justice*, 33 PHIL. & PUB. AFF. 113, 114 (2005); Andrea Sangiovanni, *Global Justice, Reciprocity, and the State*, 35 PHIL. & PUB. AFF. 3, 3–4 (2007).

sovereignty, human rights, economic development, climate change, and socioeconomic distribution, et cetera.

Accordingly, one can be ecumenical about justice concepts. Even as an international practice theorist, I grant that a non-relational luck egalitarianism is true for natural or cosmic fairness or justice. Yet I maintain that the latter concepts are peripheral rather than central issues for global economic politics. The case for this must of course be made.⁴¹ But the case against it would also have to be made, and until the issue of relevance is adequately addressed, we have taken only the first clarifying steps in the direction of political philosophy's proper, more ambitious objectives.

This is not to deny the relevance of definition, but rather to clarify its potential significance. Following Rawls, the thought can be that concepts are to be paired with appropriate conceptions, in the form of principles for a given concept's application.⁴² But here the adjustment is a two-way street. On the one hand, we assign conceptions to different concepts, refining principles in view of the concept at issue. Yet, on the other hand, we also refine our ideas of the different concepts there are by our independent sense of what differences we find in the conceptions or principles they support. When principles differ, but seem best placed under different concepts, we have no need to choose between them as apt forms of moral evaluation, under their appropriate conditions. Each conception can be basic relative to its corresponding concept, with no further conceptual question of which concept is more or less basic. But for all such conceptual excavation says, the relevance of any given concept still must be separately established. For some concepts may be central, while others are at best of peripheral importance.

Here, political philosophy can be mainly about the systematic development of different theories. However, the aim of this is to say what justice concept, conception, and methodology for its application, if any, would or would not suffice to cover the relevant, central bases. Much will depend on what issues are properly central rather than peripheral, but the thesis of Centrality would at least set political philosophy's target. The grand theory that does suffice is the one that makes good on the political philosophy's high aspiration to make a signal contribution to human

41. See, e.g., Fortune and Fairness in Global Economic Life, *supra* note 14 (manuscript at 8).

42. RAWLS, *supra* note 23, at 9.

culture and politics, which philosophers and larger humanity could really be proud of—and ask to be lavishly funded, without embarrassment.

As suggested earlier, success in this is by no means assured. Perhaps, among the properly central issues, which have rightly risen to prominence in the public's imagination, philosophy is not fit to help us understand or justify them. In that case, we should remove any confidence about the authority of philosophy, withholding our bets and hopes on its particular methods of reason. We could settle for a more modest, do-able task of mere conceptual analysis but we would be settling for a larger failure. The practice-based approach, in resisting this conclusion, hopes not only to make philosophy's contribution to global politics, but also to help bolster the authority of philosophy itself.

VII. NORMATIVITY

So much is by way of explicating the thesis of Centrality, if it is correct. How might it be motivated in the first place? I suggest that a political philosophy of domestic or global justice covers the properly central range of issues if, and only if, it covers all of the basic normative questions of justice about what we ought to do in political and social affairs, in a certain strong sense.

What sense? Suppose for the sake of argument that one properly central aim of political philosophy is to intervene in political argument in a given era of world history. A central task of the human enterprise of political philosophy—not its only task, but an essential task of central importance—is to say what we now ought to do, as a principled matter of what justice, or fairness, requires of us. Justice, or fairness, would then be “normative for us” in at least that way; its principles would say what specified real-world political agents normally have sufficient reason to do, absent extenuating circumstances, despite a range of competing considerations and the inevitable risks and uncertainties of collective or personal action. Further, in arguing about such things philosophically, we must go beyond justifying conclusive demands of fairness, simply by our own lights as theorists. The task of justifying normative demands, in the relevant strong sense, would be to justify them in a way that makes them plain to those to whom the demands are addressed—in a way that could be hoped or even expected, with luck and favorable circumstances, to shape real world social cooperation.

I take this to be a—and perhaps *the*—central ambition of Rawls's domestic theory of justice, especially in *A Theory of Justice*.⁴³ The point of the original position is to make the basic demands of justice evident to

43. *Id.*

those who would otherwise not appreciate them, so to enable ongoing cooperation.⁴⁴ It is to so fashion a publicly recognized basis for mutual justification *from what people share in common*, in order to *make things plain* to people, in a way that could encourage and sustain good faith cooperation, in a kind of “moral geometry.”⁴⁵

Whether or not Rawls’s effort was successful, notice that it will not suffice to say only that we have *some* reason to advance an ideal offered to us, as practicality permits—if it ever permits.⁴⁶ If the proposed reason is normally insufficient to outweigh competing values, it will not count as “normative for us,” in the intended strong sense. For all an appeal to a *mere* ideal says, no principles of justice ever give rise to any normally sufficient reasons for action, despite a range of competing values.⁴⁷ Justice is “fine for a perfect world,” as conservatives sometimes put it, but not applicable in *our* world, and so not necessary for us.

Now let us also assume, again for the sake of argument, that political philosophy can rightly have other aims as well. Perhaps we simply wish to explain our own convictions about justice to ourselves, without regard to practicality except insofar as that, too, reflects pure conviction.⁴⁸ And should not a thousand flowers bloom in political philosophy’s garden? A world-historical theorist engaged in normative political philosophy can certainly welcome any clarification on offer, however removed it may be from real practice. The practice theorist need only insist that this will not serve *all* of political philosophy’s central purposes.

Yet even such ecumenism will have a crucial condition: if the clarification largely neglects the strongly normative demands of justice, it will not help political philosophy rise to its most important occasion. As interesting as clarification may otherwise be, without the practice-based argument, the enterprise of political philosophy might still fail to speak for

44. *See id.*

45. I develop this aspiration to “moral geometry,” seen as akin to mathematical demonstration, in Aaron James *Political Constructivism*, in A COMPANION TO RAWLS 251, 253 (Jon Mandle & David A. Reidy eds., 2014) [hereinafter *Political Constructivism*]. Note that Hobbes had much the same ambition for *Leviathan*. THOMAS HOBBS, *LEVIATHAN* viii-ix (Richard Tuck ed., 1991).

46. G. A. Cohen said just this about his luck egalitarianism in some moments, by allowing that greater welfare may often outweigh equality (personal communication).

47. Here, it is often said that we are simply to “promote” a value, while bracketing the relative force of different competing values. I regard this as something of a fudge, or at least a placeholder for further views of the kind I am considering.

48. *See* COHEN, *supra* note 5, at 3.

reason in practice, and so fail to make its important cultural and political contribution.

VIII. SUFFICIENCY

My grand claim, then, is that a practice-sensitive argument can indeed underwrite political philosophy's enterprise. It suffices to capture the properly central range of issues in world politics by justifying an appropriate set of normative demands for real practice in our current world-historical station.

Specifically, a practice-based method offers a way of proposing principles that are recognizable as normally conclusive requirements for action, rather than mere worthy and perhaps readily overridden values, on a basis that is available to the agents being addressed. We can credibly address a practice underway, given its understood structure and purposes, with participants that have some understandings of its workings, or at least the basis for gaining a deeper understanding beyond what may be their superficial awareness of its elements. In that case, we can say that our attempt to speak for reason might be heard, because the practitioners are in a position to grasp and admit demands of fairness that arise and apply to them by virtue of the relationship they are already in. If they have understood the argument, they will not be in a position to slough off a particular demand as a mere worthy ideal, which is not applicable to them, or as "fine for an ideal world" but otherwise "impractical" or "too utopian." If all goes well, we will have given them an argument that the principles are indeed normative for them, by making it plain on their own terms. They not only in fact have certain normally conclusive reasons for action; they can see this for themselves, in part by way of understanding themselves.⁴⁹

Earlier I sketched a two-step practice account of worldwide socioeconomic distribution.⁵⁰ I take that to be a central issue, but many other issues are presumably central as well. So the final success of practice-based approach depends on how far practice accounts might apply in these other issue areas. Practice approaches are being developed on a range of topics,

49. This can be true quite aside from the individual agent's particular aims or loyalties. Christine Korsgaard, reads Kant as developing a similar but more general approach for "categorical" demands as against the moral skeptic, based on a person's own rational self-understanding. CHRISTINE KORSGAARD ET AL., *THE SOURCES OF NORMATIVITY* (Onora O'Neill ed., 1996). One might add that people in a social practice are appropriately subject to criticism and held accountable to a degree they might not be for principles that are not normative form them in some such strong sense. I have discussed Rawls's appeal to the Kantian idea of "autonomy" in other works. See *Political Constructivism*, *supra* note 45, at 253; Aaron James, *Constructivism, Intuitionism, Ecumenism*, in *THE OXFORD HANDBOOK OF DISTRIBUTIVE JUSTICE*, (Serena Olsaretti ed.) (forthcoming).

50. See *supra* Part V.

including human rights,⁵¹ legitimacy, and international law.⁵² My claim is that the practice-based project can successfully account for the issue of socioeconomic distributive justice within and across societies as well. So although my account of fairness in international trade practice is by itself insufficient to capture all of the central issues facing world politics, the more general practice approach can credibly promise to do so. There is at least reason for confidence that we can round out the picture, and so help political philosophy rise to its world-historical cultural and political occasion.⁵³

51. See, e.g., CHARLES R. BEITZ, *THE IDEA OF HUMAN RIGHTS* (2009); ALLEN BUCHANAN, *THE HEART OF HUMAN RIGHTS* (2013).

52. See, e.g., Ronald Dworkin, *A New Philosophy for International Law*, 41 *PHIL. & PUB. AFF.* 2, 30 (2013); *AUTHORITY AND TERRITORY*, *supra* note 15, at 5; Daniel David Pilchman, *A Practice Theory of International Law* (2014) (unpublished Ph.D. dissertation, University of California Irvine) (on file with author).

53. I wish to thank the participants of the University of San Diego workshop on global justice and trade at which an earlier version of this paper was discussed.

